

**BARKER REVIEW OF LAND USE PLANNING**

**RESPONSE FROM THE WILDLIFE TRUSTS**

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**The Wildlife Trusts  
The Kiln, Waterside, Mather Road, Newark, NG24 1WT  
Registered Charity No. 207238**

**Contact Point: David Westbrook, Planning Officer**



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#### **INTRODUCTION**

1. The Wildlife Trusts welcome the opportunity to comment on the Barker Review of Land Use Planning.
2. The Wildlife Trusts is a unique partnership of 47 local Wildlife Trusts covering the whole of the UK the Isle of Man and Alderney. We campaign for the protection of wildlife and invest in the future by helping people of all ages to gain a greater appreciation and understanding of nature. Collectively, The Wildlife Trusts have more than 600,000 members including 100,000 junior members. In addition, we manage almost 2,200 nature reserves, covering more than 80,000 hectares of land. These include some of the UK's finest wildlife sites in both inner city locations and rural areas.
3. We are active participants in the planning system throughout the UK from the national to the local level. Over the years our staff and volunteers have dedicated considerable time and resources to many reviews of Development Plans and scrutinise thousands of planning applications annually for impacts on biodiversity. We are engaged in the development of policies and plans including Planning Policy Statements, Regional Spatial Strategies, Local Development Frameworks and Community Strategies.

#### **GENERAL COMMENTS**

4. The planning system has served the country well. It has integrated objectives in a transparent, participatory and democratically accountable way, through a period of sustained economic growth and increasing prosperity. However, we acknowledge that it may not be fit for the 21<sup>st</sup> Century. There are signs that the system may not be able to continue to facilitate economic growth as effectively in the context of the new 'big issues' - globalisation, biodiversity degradation and climate change.
5. It may be tempting to curtail regulation in the face of some of these new challenges, especially where globalisation is perceived to dictate more rapid responses to the accelerating speed of business change. This would be an error.
6. The planning system did not appear by chance but was the product of a wish by government to tackle the negative impacts of private sector activity in the development of land. The modern planning system was born out of an awareness of the need to create an efficient framework for economic and social progress and to guarantee environmental quality for the whole population. Significantly, regulation was imposed in response to an acute awareness, identified in the Barlow report (1940), of the huge negative externalities of a free market in the development of land. The free market had led to as much inefficiency, through poorly serviced and badly designed development, as it had to environmental degradation. These basic economic arguments for planning remain intact, particularly where land is an increasingly scarce resource.
7. Thus we have a system today that is founded on three important principles:
  - The regulation of land to provide a rational landscape for sustainable economic development.
  - The regulation of land offering the opportunity to achieve wider public interest objectives, such as delivering sustainable development.
  - Planning regulation carried out in a democratically accountable and participative manner, in order to ensure both that the public interest is upheld and that conflict over land is mediated in a transparent way.



8. The relationship between spatial planning, sustainable growth and equitable prosperity is direct and holistic. Neither the government's sustainable growth agenda nor its regeneration agenda can be realised without effective planning. If the planning system doesn't recognise that economic, social and environmental issues have equal status, one or more will be compromised and we shall fail to achieve 'sustainable development'.
9. Planning seeks to foster '*a sustainable, innovative and productive economy that delivers high levels of employment, and a just society that promotes social inclusion, sustainable communities and personal well being, in ways that protect and enhance the physical environment and optimise resource and energy use.*'<sup>i</sup> Environmental and social goals are not side issues to be dealt with after economic goals are met. Sustainable development is about achieving all of them. Sustainable development is a holistic concept. The strands cannot be separated.
10. In relation to wildlife and biodiversity, we would remind the Review group that the purpose of planning, as specified in Planning Policy Statement 9<sup>ii</sup> (PPS9), is to:
  - promote sustainable development
  - conserve, enhance and restore the diversity of England's wildlife and geology, and
  - contribute to rural renewal and urban renaissance.
11. The Wildlife Trusts are concerned that the Review will seek to alter these aims with serious consequences for environmental protection, public interest and participative rights. Our fears are fuelled by the terms of reference for the Review. They speak of 'balancing' the pillars of sustainable development. This is both surprising and disturbing given the Government's current policy position<sup>iii</sup>, which replaces the language of 'balancing' objectives by an integrated approach seeking to achieve 'win-win-win' outcomes and avoiding damaging trade-offs between the environment, society and the economy.
12. The Wildlife Trusts work closely with the business community and understand both the role of economic growth in promoting sustainable development and the contribution that the natural environment can make to economic activity throughout the UK. Uses of biodiversity directly support over 35,000 full-time equivalent (FTE) jobs and contribute over £4.8 billion to GDP<sup>iv</sup>. Environment-related activities in the UK (broadly defined as those depending directly or indirectly on the quality of the natural environment) are estimated to support around 500,000 jobs and £18.6 billion of GDP. In England, the landscape and nature conservation sector provides 8,600 FTE jobs, and activities 'based on a high quality natural environment' support 299,000 FTEs and £7.6 billion gross value added<sup>v</sup>.
13. Jobs in the nature conservation sector play a significant role in rural development. For example, the 330 jobs supported by Wildlife Trust reserves in their local economies are valuable as a direct source of employment and also for the seasonal and occupational diversity they bring to rural areas. Employment on Trust reserves brings benefits to sites that previously supported little or no economic activity. Spending from visitors to reserves supports further employment.
14. Wildlife conservation and environmental quality is not only important to rural economies. In a recent study, the West Midlands' economy was found to benefit from 90,000 jobs in the environmental sector, representing 5% of regional GDP.
15. We are concerned, finally, that the Review is premature. The Planning and Compulsory Purchase Act received Royal Assent barely two years ago. The reforms this legislation introduced are still bedding down and must be given time to work. It is worth noting that the plan-led approach introduced by the 1991 Act had only just begun to take full effect across the country when the Planning Green Paper was published in 2001. The consequent uncertainty and flux that has ensued for the last four to five years has done little to improve



the effectiveness of planning. While the cultural change in planning required by the 2004 Act is arguably less significant than that of the 1990 and 1991 Acts, the complexity of the new system is highly demanding of all participants. It is thus far too early to assess the operation of the new system with a view to making further major changes. This may be the right time to add value to this change process, it is certainly not the right time to delay or set back the positive progress that has been achieved.

16. We believe that the Review should recognise the volume of development delivered over the last 60 years by the planning system, its marked success in containing urban sprawl - in stark contrast to many other countries in Europe and elsewhere - and the high quality of much recent regeneration work. **It is in this context that The Wildlife Trusts believe that there is scope to de-clutter but not dismantle the system.**



## SPECIFIC RESPONSE TO REVIEW QUESTIONS

### 1. *Is the planning system sufficiently flexible and/or responsive?*

No comment.

### 2. *Can the plan making structure/process be improved?*

There are many good features of the new system, for example, the generally positive relationship between Regional Plans and Regional Biodiversity Partnerships. However, the move from the 1991 system to the current plan-making arrangements has caused substantial extra work for many Non-Governmental Organisations (NGOs) such as The Wildlife Trusts. Almost every District and Unitary Authority is calling upon NGOs to engage in their Local Development Framework (LDF) process in a very short period of time. In the absence of a single countywide perspective, this can lead to a considerable duplication of effort and, in an attempt to fill the gap between local and regional perspectives, sub-regional plans are now being prepared in some parts of the country. Thus, far from simplifying the Development Plan system, the new arrangements are placing a great strain on limited resources. For Wildlife Trusts, the response to plans, frameworks and strategies can only be funded from voluntary sources and often at the expense of direct investment in nature conservation and biodiversity enhancement.

The Wildlife Trusts are also concerned by a complexity of format and by detailed procedures that seem to delay and confuse. These are a serious deterrent to the Trusts' engagement in the planning process – an experience that must strike a chord with many in the business community. One recent example of a Plan contains a glossary of technical terms running to four pages.

Under the previous system, there was a single local plan, to which the public could refer for all of that local authority's statutory planning policies. The new system provides for: a local development scheme, a statement of community involvement, a core strategy, site-specific allocations, area action plans, a proposals map, sustainability assessments, an annual monitoring report and supplementary planning documents, most or all of which have a separate statutory process to follow.

Our experience is that the process appears much more complicated. While this might be teething problems, it could prove in time to be more serious. The plan-making process is based on some good principles but the resource and capacity to implement the guidance and policy needs an increase in capacity, expertise and information, particularly in relation to the environment.

For example, planning guidance (see, for example, key principle (i) PPS9) requires development plan policies and planning decisions to be based upon up to date information about biodiversity resources. Assembling an adequate biodiversity evidence base early on in the planning process is vital both to avoiding costly delays later on making the most of enhancement opportunities. Yet our experience is that there is a need for increased investment in both the collection and utilisation of biodiversity information.

### 3. *Does the system strike the right balance between economic and other goals?*

In theory, yes. However, it is too early to judge the success of applying new sustainable development policies to all levels of the plan-making and regulatory systems.

PPS9 and the Biodiversity Strategy for England<sup>vi</sup> demonstrate that there is no need for conflict between economic and environmental goals. We urge the Review group to endorse this view of the benefits of a sustainable development approach and the search for 'win-win-win' outcomes.



Despite the government's aspirations to go beyond simply protecting natural resources and to be proactive in enriching biodiversity, very few authorities have translated this into local habitat restoration and/or creation programmes. Such initiatives are critical to:

- achieving urban renaissance,
- enabling our ecosystem to adapt to climate change, and
- given the tourist industry's dependence on an attractive and wildlife-rich coast and countryside, avoiding harm to national economic prospects.

The application of sustainable development principles does, of course, involve, in exceptional cases, resisting those economic development projects that threaten societal and/or environmental goals. What is important is that the exercise of a presumption against such development and the expectation of a refusal of permission are clear to all involved. This helps developers better understand the risks involved in promoting a development that threatens sites of local, national and international wildlife importance.

The recent decision to refuse a major new container terminal at Dibden Bay in the New Forest, Hampshire<sup>vii</sup> provides good evidence of:

- a growing confidence that these judgements can be made without recourse to the European Courts, and
- an integrated approach to sustainable development.

In this respect, we appear to have moved forward from the Lappel Bank (Medway Estuary, Kent) – a notorious case that led to a ruling of illegal action against the UK Government by the European Court of Justice.

#### **4. Lessons from abroad?**

The Wildlife Trusts would suggest that a comparison is made between the UK planning system and that operating in the Netherlands. We are particularly impressed with the national spatial planning system<sup>viii</sup>, with the Dutch Government not only publishing national planning policies but also a National Spatial Strategy.

The National Spatial Strategy seeks to transform spatial *planning* into spatial *development* and thus become a partner for change instead of simply a regulatory body that obstructs development. Derived from the Fifth National Policy Document on Spatial Planning, one of the goals of the National Spatial Strategy is to give all land uses and functions the space they need. This is to be done in such a way that it strengthens the international competitive position of the Netherlands, or at least does not threaten it. In pursuing this aim, the Government looks further than its national borders; spatial planning decisions of national importance are taken from an international perspective.

These ambitions apply equally to the economic and environmental sectors. Growth areas and targets for the concentration of development in existing urban centres is complemented by twelve ecological corridors, designated to focus public investment in the repair of fragmented sections of the National Ecological Network.

The benefits of a national strategy such as this, is to give clarity and certainty to national policy. All bodies involved in planning benefit from this approach – regional and local government; NGOs, developers and the public. There is nothing comparable in the UK and, as a result, the planning system operates in an atmosphere of considerable uncertainty about the interpretation of national policy. We suggest that this leads to delayed decision-taking and can result in considerable wasted effort. Certainly, the length of planning enquiries into major infrastructure proposals could be reduced, if not in some cases avoided, by a national spatial strategy.



### **5. Does planning encourage or impede business investment?**

The invitation to give evidence to the Review Group implies that the regulation of land use is excessive. The tone, effectively, encourages a negative response to this question. All forms of regulation impede freedom of action but, we hope, the body of evidence will demonstrate that a certain curtailment of this freedom is both justified and reasonable in the widest interests of society.

We should also like the Review Group to have regard to a recent report of the House of Commons 'Planning, Competitiveness and Productivity' Committee. In its fourth report<sup>ix</sup>, the Committee concluded, on a related topic, that "our evidence shows that planning is not a significant factor in determining productivity, even in the retail sector. Skills, innovation and investment are the most important."

### **6. Is the planning system sufficiently "joined-up" with other related aspects of government policy at the regional level?**

The current planning system is very new. Consequently, we are in a state of transition with Regional Planning Guidance, Structure Plans and Local Plans gradually being replaced by revised Regional Spatial Strategies and Local Development Framework documents. We are also in a state of flux as institutional arrangements are put in place in response to Lord Haskins' review of rural delivery, with Regional Development Agencies taking on new responsibilities and the merger of major functions of the Rural Development Service, the Countryside Agency and English Nature to form Natural England. Added to this, we have new institutional arrangements for the regional assemblies; for example, in South East England, where a regional transport board has recently emerged and been added to the responsibilities of the regional assembly (SEERA); and Government Office for the South East is in the process of transferring responsibilities of the SE Regional Housing Board to SEERA.

Within this landscape of change, one high level document that appears to have provided a valuable and effective anchor (despite a recent change in its description) is the 'Regional Sustainable Development Framework' (RSDF; now called Integrated Regional Strategy or Integrated Regional Framework). Experience in South East England is that this is a useful set of objectives (along with targets and indicators to monitor performance) covering economic, social and environmental sectors, and agreed by all major regional institutions and stakeholder groups. Its value is evident from the important role it has played in the development of the South East Plan and the current review of the Regional Economic Strategy. In both cases, the IRF is the starting point for the sustainability assessment and Strategic Environmental Assessment process. In the South East Plan, the first in the list of core principles (or objectives) of the Plan is *"the need for a clear vision supported by challenging targets and which reflects quality of life considerations aligned with and tested against the objectives set out in the Integrated Regional Framework."*<sup>x</sup>

Given that any new system needs some time to become established and understood by all stakeholders, for transitional arrangements to work through, and for those affected by the new arrangements to be familiar with them, it does appear to us that:

- The question posed is somewhat premature. New systems need time to bed down, and the scale and pace of change at regional level in recent years can reasonably be described as an upheaval. However, the changes that have been instituted do appear to have the potential to deliver an effective planning framework which ought to be able to deliver sustainable development;
- Relationships between the regional assembly (as the regional planning board) and the regional transport board and the regional housing board are untested. Some specific rules may need to be put in place in order to ensure the different functions are effectively discharged;
- The Regional Sustainable Development Framework (or Integrated Regional Strategy or Integrated Regional Framework) is a vitally important foundation which has the potential to deliver effective, joined-up regional governance, including the



planning system, with the overall objectives of sustainable development and enhancing quality of life.

### **7. Do major planning applications take too long to determine?**

The focus on speed is understandable. The UK development control system has a reputation for being protracted in comparison with that of other developed countries. However, we do not accept that it is necessary to reduce the scope of planning considerations, nor curtail participatory rights in an attempt to address the negative impacts of 'delays'.

We are most concerned that any measures which may be proposed to reduce the time taken to get planning approval should not be at the expense of important and necessary steps to ensure decisions that are consistent with the principles of sustainable development. For example, the collection of essential biodiversity information about sites/areas where development is proposed must take account of natural biological cycles. Surveys for protected or other important species are often only possible at certain times of year and there can be no short cuts.

We would hope that the time spent on public consultation would not simply be regarded as unnecessary delay to the process. As well as giving the public the right to know about developments affecting them, it is also an opportunity for unforeseen consequences of the development to emerge, and can result in a planning consent that is more acceptable to the community at large, as well as to the applicant.

A key contributor to delays is often the poor quality of planning application submissions; in particular, the absence of an adequate evidence-base on which consultees can provide meaningful advice to inform planning decisions. Applicants, who may need to plan ahead and undertake ecological and other appraisals in advance of submission, can address this through better project and risk management. The aim would be for all applications to be 'good enough to evaluate', if not 'good enough to permit'.

Applicants can be helped to achieve this aim if planning authorities assemble 'development teams' of key consultees. The team would, in partnership with the applicant and at the earliest opportunity, identify the range of appraisals necessary to support the application. The Wildlife Trusts are always delighted to participate in such initiatives. Not only do they benefit the applicant but, in our experience, cooperation, rather than confrontation, delivers a better 'public good'.

If these practices were to become the norm, then it would be possible to replace the current 'process' targets with 'outcome' targets to demonstrate that the public is interested in what really matters - the quality of development – and not whether an application took 13 weeks or 113 weeks to determine.

For smaller scale development proposals, the use of simple 'submissions' checklists can ensure that applications are complete before time is committed to processing the application. Too often vital issues emerge that have not been addressed by the applicant. On these occasions, determination of the application must be held in abeyance or the application refused permission. The delay, whilst the applicant submits a new or amended application, supported by additional information to address the outstanding issue, can be a source of frustration and wasted effort by all involved in the case. Such checklists are being developed, for wildlife matters, in Dorset.

Where agreement between applicants and authorities is proving difficult to achieve, is it not possible to use mediation as an alternative to appeals? We understand that mediation has proved to be a successful alternative to the courts in many community disputes and unsocial behaviour cases. It is already used in an attempt to resolve disputes about high hedges without the need to use formal planning powers. Such an approach could offer all



participants in the planning process, including Wildlife Trusts, a cheaper and quicker alternative to the appeal process.

**8. Can the direct costs of making a planning application be reduced?**

No comment.

**9. Is planning responsible for high occupation costs?**

No comment.

**10. How does the planning system impact on competition?**

No comment.

**11. Can the planning system better support business innovation?**

No comment.

**12. Do planning authorities have the skills and resource to help promote sustainable economic development?**

We would question whether planning authorities do possess the skills necessary to promote truly sustainable economic development. Such development must be underpinned by and contribute to, a healthy biodiversity and natural environment and the life supporting ecological services - including flood defence, pollution control and carbon sequestration - that this provides. Understanding the complex processes involved and shaping development in ways that work with and restore these services, rather than continually erode them, will require vision and drive and necessitate planners acquiring and employing new skills and expertise.

The evidence of shortages of professional officers suggests that there is a resource deficiency. Certainly Wildlife Trusts can testify, from direct experience, to the high cost and relative scarcity of professional planners. We understand there is a vacancy rate of 11% for planners. Of equal concern is the availability of ecological advice. We understand that only 60% of planning authorities employ ecologists. The problem here is not simply too few ecologists but in some cases none at all. The Association of Local Government Ecologists is working with the British Standards Institute to address this shortcoming.<sup>xi</sup>

**13. Are business stakeholders better engaged in planning under the new plan-making arrangement?**

No comment.

**14. Could the incentives structure be changed to achieve a better balance between local interests and those of the wider community?**

No comment.

**15. How could planning strengthen economic performance in the search for regeneration and renaissance?**

By promoting and delivering environmental quality in our urban areas, planning can strengthen economic performance, attract and retain population and businesses, and attract and increase inward investment. All of which are essential to any successful regeneration programme. Biodiversity is, of course, a key component of good environmental quality.

**CONCLUDING MESSAGE**

The Wildlife Trusts believe that the planning system has suffered from a lack of vision in the recent past. Now we have that vision in PPS9, planning authorities need the capacity, expertise and information to deliver it.

Effective business development, in many sectors, relies on good supporting environmental infrastructure and the underpinning ecological services that provides. Employees want to live



and work in a pleasant environment. Access to multi-functional natural greenspace has benefits for physical and mental health. It reduces healthcare costs.

Investment in green infrastructure associated with built development makes good business sense and can increase property values. A healthy natural environment can attract inward investment and support regeneration. The environment should therefore not be seen in terms of something not to be damaged by business development but as a positive good, which brings long-term added value. It should be afforded more positive consideration and investment when planning for new development and, under no circumstances, should it be sacrificed to secure short-term economic advantage.

## **The Wildlife Trusts** **28 March 2006**

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- <sup>i</sup> Office of the Deputy Prime Minister, 2005, Planning Policy Statement 1, *Delivering Sustainable Development*
  - <sup>ii</sup> Office of the Deputy Prime Minister, 2005 Planning Policy Statement 9, *Biodiversity and Geological Conservation*
  - <sup>iii</sup> PPS1 (as above) and Department of Environment, Food and Rural Affairs, 1999, *A better quality of life – A Strategy for Sustainable Development*
  - <sup>iv</sup> IUCN, 2003. *Use of wild living resources in the UK.*
  - <sup>v</sup> GHK and GFA-RACE, 2004. *Revealing the value of the natural environment in England.*
  - <sup>vi</sup> Department of Environment, Food and Rural Affairs, 2002, *A Biodiversity Strategy for England – Working with the Grain of Nature*
  - <sup>vii</sup> [http://www.foe.co.uk/campaigns/transport/portswatch/port\\_proposals/dibden\\_summary\\_decision.html](http://www.foe.co.uk/campaigns/transport/portswatch/port_proposals/dibden_summary_decision.html)
  - <sup>viii</sup> <http://international.vrom.nl/>
  - <sup>ix</sup> *House of Commons: Session 2002/03: Fourth Report - Planning, Competitiveness and Productivity*, <http://www.odpm.gov.uk/index.asp?id=1143471>
  - <sup>x</sup> Draft South East Plan Part 1: Core Regional Policies, deposited with Government Office for the South East on 29 July 2005; Section A, para 4.2 (i), page 6
  - <sup>xi</sup> British Standards Institute, 2006, Draft PAS: *Planning to halt the loss of biodiversity*